



**United States Department of State**

*Washington, D.C. 20520*

*www.state.gov*

May 19, 2005

Dear Mr. Moran:

I am writing in response to your request for a clarification of the procedures available to effect service of process in the Russian Federation. This letter seeks only to provide information; it is not an opinion on any aspect of U.S., Russian, or international law. The U.S. Department of State does not intend by the contents of this letter to take a position on any aspect of any pending litigation.

In July 2003, Russia unilaterally suspended all judicial cooperation with the United States in civil and commercial matters. Russia refuses to serve letters of request from the United States for service of process presented under the terms of the 1965 Hague Service Convention or to execute letters rogatory transmitted via the diplomatic channel. Russia also declines to give consideration to U.S. requests to obtain evidence. While the Department of State is prepared to transmit letters rogatory for service or evidence to Russian authorities via the diplomatic channel, in our experience, all such requests are returned unexecuted. Likewise requests sent directly by litigants to the Russian Central Authority under the Hague Service Convention are returned unexecuted.

On June 1, 2003, the United States imposed a new fee for service of foreign documents in the United States by a private contractor hired by the U.S. Department of Justice, the U.S. Central Authority for the Hague Service Convention. This fee applies to Hague Service Convention requests and non-treaty requests from foreign governments (letters rogatory) received via the diplomatic channel. Such fees are permitted under the Hague Service Convention and routinely charged by many States party to the Convention.

Mr. Dennis M. Moran  
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Between October 28 – November 4, 2003, a Special Commission on the Practical Operation of the Hague Service, Evidence and Legalization Conventions convened at The Hague. See [http://hcch.e-vision.nl/upload/wop/lse\\_concl\\_e.pdf](http://hcch.e-vision.nl/upload/wop/lse_concl_e.pdf). The Special Commission's Conclusions and Recommendations of November 4, 2003, page 10, paragraph 53, provide:

"The Special Commission reaffirmed that according to Article 12(1), a State party shall not charge for its services rendered under the Convention. Nevertheless, under Article 12(2), an applicant shall pay or reimburse the costs occasioned by the employment of a judicial officer or other competent person. The Special Commission urged States to ensure that any such costs reflect actual expenses and be kept at a reasonable level."

The Russian Federation did not support this recommendation and reserved its position.

On December 3, 2004, the Russian Federation deposited a declaration with the Government of the Netherlands, the treaty depository, naming a Central Authority and taking a reservation regarding certain aspects of the treaty. See [http://www.hcch.net/index\\_en.php?act=status.comment&csid=418&disp=resdn](http://www.hcch.net/index_en.php?act=status.comment&csid=418&disp=resdn). The declaration provides:

"The Russian Federation assumes that in accordance with Article 12 of the Convention the service of judicial documents coming from a Contracting State shall not give rise to any payment or reimbursement of taxes or costs for the services rendered by the State addressed. Collection of such costs (with the exception of those provided for by subparagraphs a) and b) of the second paragraph of Article 12) by any Contracting State shall be viewed by the Russian Federation as refusal to uphold the Convention in relation to the Russian Federation, and, consequently, the Russian Federation shall not apply the Convention in relation to this Contracting State."


The Department and the Russian Foreign Ministry have exchanged several diplomatic notes setting out our respective positions on the matter, and met twice in Moscow to explore ways to provide normal judicial cooperation. We hope to meet again later this year.

Since the Russian suspension of U.S. judicial assistance requests in civil and commercial matters, we advise litigants that they may wish to seek guidance from legal counsel in Russia regarding alternative methods of service. The United States has informed the Russian Federation on numerous occasions that in the absence of a direct channel for U.S. judicial assistance requests, U.S.

courts and litigants will find other methods to effect service of process. Where service is effected by an agent in Russia, such as a Russian attorney, such a person may execute an affidavit of service at the U.S. embassy or consulate in Russia as a routine notarial service.

Should you have any further questions regarding these issues, please do not hesitate to contact Ms. Monica A. Gaw of this office at 202-736-9107.

Sincerely,



Edward A. Betancourt  
Director  
Office of Policy Review and Inter-Agency Liaison  
Directorate of Overseas Citizens Services  
Bureau of Consular Affairs